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LRB096 09106 AJT 22908 a

1 AMENDMENT TO HOUSE BILL 2322

2 AMENDMENT NO. _____. Amend House Bill 2322 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Section 5-102 and by adding Section 5-102.5 as
6 follows:

7 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

8 Sec. 5-102. Used vehicle dealers must be licensed.

9 (a) No person, other than a licensed new vehicle dealer,
10 shall engage in the business of selling or dealing in, on
11 consignment or otherwise, 5 or more used vehicles of any make
12 during the year (except house trailers as authorized by
13 paragraph (j) of this Section and rebuilt salvage vehicles sold
14 by their rebuilders to persons licensed under this Chapter), or
15 act as an intermediary, agent or broker for any licensed dealer
16 or vehicle purchaser (other than as a salesperson) or represent

1 or advertise that he is so engaged or intends to so engage in
2 such business unless licensed to do so by the Secretary of
3 State under the provisions of this Section.

4 (b) An application for a used vehicle dealer's license
5 shall be filed with the Secretary of State, duly verified by
6 oath, in such form as the Secretary of State may by rule or
7 regulation prescribe and shall contain:

8 1. The name and type of business organization
9 established and additional places of business, if any, in
10 this State.

11 2. If the applicant is a corporation, a list of its
12 officers, directors, and shareholders having a ten percent
13 or greater ownership interest in the corporation, setting
14 forth the residence address of each; if the applicant is a
15 sole proprietorship, a partnership, an unincorporated
16 association, a trust, or any similar form of business
17 organization, the names and residence address of the
18 proprietor or of each partner, member, officer, director,
19 trustee or manager.

20 3. A statement that the applicant has been approved for
21 registration under the Retailers' Occupation Tax Act by the
22 Department of Revenue. However, this requirement does not
23 apply to a dealer who is already licensed hereunder with
24 the Secretary of State, and who is merely applying for a
25 renewal of his license. As evidence of this fact, the
26 application shall be accompanied by a certification from

1 the Department of Revenue showing that the Department has
2 approved the applicant for registration under the
3 Retailers' Occupation Tax Act.

4 4. A statement that the applicant has complied with the
5 appropriate liability insurance requirement. A Certificate
6 of Insurance in a solvent company authorized to do business
7 in the State of Illinois shall be included with each
8 application covering each location at which he proposes to
9 act as a used vehicle dealer. The policy must provide
10 liability coverage in the minimum amounts of \$100,000 for
11 bodily injury to, or death of, any person, \$300,000 for
12 bodily injury to, or death of, two or more persons in any
13 one accident, and \$50,000 for damage to property. Such
14 policy shall expire not sooner than December 31 of the year
15 for which the license was issued or renewed. The expiration
16 of the insurance policy shall not terminate the liability
17 under the policy arising during the period for which the
18 policy was filed. Trailer and mobile home dealers are
19 exempt from this requirement.

20 If the permitted user has a liability insurance policy
21 that provides automobile liability insurance coverage of
22 at least \$100,000 for bodily injury to or the death of any
23 person, \$300,000 for bodily injury to or the death of any 2
24 or more persons in any one accident, and \$50,000 for damage
25 to property, then the permitted user's insurer shall be the
26 primary insurer and the dealer's insurer shall be the

1 secondary insurer. If the permitted user does not have a
2 liability insurance policy that provides automobile
3 liability insurance coverage of at least \$100,000 for
4 bodily injury to or the death of any person, \$300,000 for
5 bodily injury to or the death of any 2 or more persons in
6 any one accident, and \$50,000 for damage to property, or
7 does not have any insurance at all, then the dealer's
8 insurer shall be the primary insurer and the permitted
9 user's insurer shall be the secondary insurer.

10 When a permitted user is "test driving" a used vehicle
11 dealer's automobile, the used vehicle dealer's insurance
12 shall be primary and the permitted user's insurance shall
13 be secondary.

14 As used in this paragraph 4, a "permitted user" is a
15 person who, with the permission of the used vehicle dealer
16 or an employee of the used vehicle dealer, drives a vehicle
17 owned and held for sale or lease by the used vehicle dealer
18 which the person is considering to purchase or lease, in
19 order to evaluate the performance, reliability, or
20 condition of the vehicle. The term "permitted user" also
21 includes a person who, with the permission of the used
22 vehicle dealer, drives a vehicle owned or held for sale or
23 lease by the used vehicle dealer for loaner purposes while
24 the user's vehicle is being repaired or evaluated.

25 As used in this paragraph 4, "test driving" occurs when
26 a permitted user who, with the permission of the used

1 vehicle dealer or an employee of the used vehicle dealer,
2 drives a vehicle owned and held for sale or lease by a used
3 vehicle dealer that the person is considering to purchase
4 or lease, in order to evaluate the performance,
5 reliability, or condition of the vehicle.

6 As used in this paragraph 4, "loaner purposes" means
7 when a person who, with the permission of the used vehicle
8 dealer, drives a vehicle owned or held for sale or lease by
9 the used vehicle dealer while the user's vehicle is being
10 repaired or evaluated.

11 5. An application for a used vehicle dealer's license
12 shall be accompanied by the following license fees:

13 \$1,000 for applicant's established place of business,
14 and \$50 for each additional place of business, if any, to
15 which the application pertains; however, if the
16 application is made after June 15 of any year, the license
17 fee shall be \$500 for applicant's established place of
18 business plus \$25 for each additional place of business, if
19 any, to which the application pertains. License fees shall
20 be returnable only in the event that the application is
21 denied by the Secretary of State. Of the money received by
22 the Secretary of State as license fees under this Section
23 for the 2004 licensing year and thereafter, 95% shall be
24 deposited into the General Revenue Fund.

25 6. A statement that the applicant's officers,
26 directors, shareholders having a 10% or greater ownership

1 interest therein, proprietor, partner, member, officer,
2 director, trustee, manager or other principals in the
3 business have not committed in the past 3 years any one
4 violation as determined in any civil, criminal or
5 administrative proceedings of any one of the following
6 Acts:

7 (A) The Anti Theft Laws of the Illinois Vehicle
8 Code;

9 (B) The Certificate of Title Laws of the Illinois
10 Vehicle Code;

11 (C) The Offenses against Registration and
12 Certificates of Title Laws of the Illinois Vehicle
13 Code;

14 (D) The Dealers, Transporters, Wreckers and
15 Rebuilders Laws of the Illinois Vehicle Code;

16 (E) Section 21-2 of the Illinois Criminal Code of
17 1961, Criminal Trespass to Vehicles; or

18 (F) The Retailers' Occupation Tax Act.

19 7. A statement that the applicant's officers,
20 directors, shareholders having a 10% or greater ownership
21 interest therein, proprietor, partner, member, officer,
22 director, trustee, manager or other principals in the
23 business have not committed in any calendar year 3 or more
24 violations, as determined in any civil or criminal or
25 administrative proceedings, of any one or more of the
26 following Acts:

- 1 (A) The Consumer Finance Act;
- 2 (B) The Consumer Installment Loan Act;
- 3 (C) The Retail Installment Sales Act;
- 4 (D) The Motor Vehicle Retail Installment Sales
- 5 Act;
- 6 (E) The Interest Act;
- 7 (F) The Illinois Wage Assignment Act;
- 8 (G) Part 8 of Article XII of the Code of Civil
- 9 Procedure; or
- 10 (H) The Consumer Fraud Act.

11 8. A bond or Certificate of Deposit in the amount of

12 \$20,000 for each location at which the applicant intends to

13 act as a used vehicle dealer. The bond shall be for the

14 term of the license, or its renewal, for which application

15 is made, and shall expire not sooner than December 31 of

16 the year for which the license was issued or renewed. The

17 bond shall run to the People of the State of Illinois, with

18 surety by a bonding or insurance company authorized to do

19 business in this State. It shall be conditioned upon the

20 proper transmittal of all title and registration fees and

21 taxes (excluding taxes under the Retailers' Occupation Tax

22 Act) accepted by the applicant as a used vehicle dealer.

23 9. Such other information concerning the business of

24 the applicant as the Secretary of State may by rule or

25 regulation prescribe.

26 10. A statement that the applicant understands Chapter

1 through Chapter 5 of this Code.

2 11. A copy of the certification from the prelicensing
3 education program.

4 (c) Any change which renders no longer accurate any
5 information contained in any application for a used vehicle
6 dealer's license shall be amended within 30 days after the
7 occurrence of each change on such form as the Secretary of
8 State may prescribe by rule or regulation, accompanied by an
9 amendatory fee of \$2.

10 (d) Anything in this Chapter to the contrary
11 notwithstanding, no person shall be licensed as a used vehicle
12 dealer unless such person maintains an established place of
13 business as defined in this Chapter.

14 (e) The Secretary of State shall, within a reasonable time
15 after receipt, examine an application submitted to him under
16 this Section. Unless the Secretary makes a determination that
17 the application submitted to him does not conform to this
18 Section or that grounds exist for a denial of the application
19 under Section 5-501 of this Chapter, he must grant the
20 applicant an original used vehicle dealer's license in writing
21 for his established place of business and a supplemental
22 license in writing for each additional place of business in
23 such form as he may prescribe by rule or regulation which shall
24 include the following:

- 25 1. The name of the person licensed;
- 26 2. If a corporation, the name and address of its

1 officers or if a sole proprietorship, a partnership, an
2 unincorporated association or any similar form of business
3 organization, the name and address of the proprietor or of
4 each partner, member, officer, director, trustee or
5 manager;

6 3. In case of an original license, the established
7 place of business of the licensee;

8 4. In the case of a supplemental license, the
9 established place of business of the licensee and the
10 additional place of business to which such supplemental
11 license pertains.

12 (f) The appropriate instrument evidencing the license or a
13 certified copy thereof, provided by the Secretary of State
14 shall be kept posted, conspicuously, in the established place
15 of business of the licensee and in each additional place of
16 business, if any, maintained by such licensee.

17 (g) Except as provided in subsection (h) of this Section,
18 all used vehicle dealer's licenses granted under this Section
19 expire by operation of law on December 31 of the calendar year
20 for which they are granted unless sooner revoked or cancelled
21 under Section 5-501 of this Chapter.

22 (h) A used vehicle dealer's license may be renewed upon
23 application and payment of the fee required herein, and
24 submission of proof of coverage by an approved bond under the
25 "Retailers' Occupation Tax Act" or proof that applicant is not
26 subject to such bonding requirements, as in the case of an

1 original license, but in case an application for the renewal of
2 an effective license is made during the month of December, the
3 effective license shall remain in force until the application
4 for renewal is granted or denied by the Secretary of State.

5 (i) All persons licensed as a used vehicle dealer are
6 required to furnish each purchaser of a motor vehicle:

7 1. A certificate of title properly assigned to the
8 purchaser;

9 2. A statement verified under oath that all identifying
10 numbers on the vehicle agree with those on the certificate
11 of title;

12 3. A bill of sale properly executed on behalf of such
13 person;

14 4. A copy of the Uniform Invoice-transaction reporting
15 return referred to in Section 5-402 of this Chapter;

16 5. In the case of a rebuilt vehicle, a copy of the
17 Disclosure of Rebuilt Vehicle Status; and

18 6. In the case of a vehicle for which the warranty has
19 been reinstated, a copy of the warranty.

20 (j) A real estate broker holding a valid certificate of
21 registration issued pursuant to "The Real Estate Brokers and
22 Salesmen License Act" may engage in the business of selling or
23 dealing in house trailers not his own without being licensed as
24 a used vehicle dealer under this Section; however such broker
25 shall maintain a record of the transaction including the
26 following:

- 1 (1) the name and address of the buyer and seller,
- 2 (2) the date of sale,
- 3 (3) a description of the mobile home, including the
- 4 vehicle identification number, make, model, and year, and
- 5 (4) the Illinois certificate of title number.

6 The foregoing records shall be available for inspection by
7 any officer of the Secretary of State's Office at any
8 reasonable hour.

9 (k) Except at the time of sale or repossession of the
10 vehicle, no person licensed as a used vehicle dealer may issue
11 any other person a newly created key to a vehicle unless the
12 used vehicle dealer makes a copy of the driver's license or
13 State identification card of the person requesting or obtaining
14 the newly created key. The used vehicle dealer must retain the
15 copy for 30 days.

16 A used vehicle dealer who violates this subsection (k) is
17 guilty of a petty offense. Violation of this subsection (k) is
18 not cause to suspend, revoke, cancel, or deny renewal of the
19 used vehicle dealer's license.

20 (l) Used vehicle dealers licensed under this Section shall
21 provide the Secretary of State a register for the sale at
22 auction of each salvage or junk certificate vehicle. Each
23 register shall include the following information:

- 24 1. The year, make, model, style and color of the
- 25 vehicle;
- 26 2. The vehicle's manufacturer's identification number

1 or, if applicable, the Secretary of State or Illinois
2 Department of State Police identification number;

3 3. The date of acquisition of the vehicle;

4 4. The name and address of the person from whom the
5 vehicle was acquired;

6 5. The name and address of the person to whom any
7 vehicle was disposed, the person's Illinois license number
8 or if the person is an out-of-state salvage vehicle buyer,
9 the license number from the state or jurisdiction where the
10 buyer is licensed; and

11 6. The purchase price of the vehicle.

12 The register shall be submitted to the Secretary of State
13 via written or electronic means within 10 calendar days from
14 the date of the auction.

15 (Source: P.A. 95-783, eff. 1-1-09.)

16 (625 ILCS 5/5-102.5 new)

17 Sec. 5-102.5. Used vehicle dealer prelicensing education
18 program courses.

19 (a) An applicant for a license as a used vehicle dealer
20 shall complete a minimum of 8 hours of prelicensing education
21 program courses pursuant to this Section prior to submitting an
22 application to the Secretary of State.

23 (b) To meet the requirements of this Section, at least one
24 individual who is associated with the used vehicle dealer as an
25 owner, principal, corporate officer, director, or member or

1 partner of a limited liability company or limited liability
2 partnership shall complete the education program courses.

3 (c) The education program courses shall be provided by
4 public or private entities with an expertise in the area as
5 approved by the Secretary of State. The Secretary of State must
6 approve course curricula and instruction, in consultation with
7 the Illinois Department of Transportation, the Attorney
8 General, and any private entity with expertise in the area in
9 the Secretary of State's discretion.

10 (d) Each person who successfully completes an approved
11 prelicensing education program under this Section shall be
12 issued a certificate by the education program provider of the
13 course. The current certificate of completion, or a copy of the
14 certificate, shall be posted conspicuously in the principal
15 office of the licensee.

16 (e) The provisions of this Section apply to all used
17 vehicle dealers including, but not limited to, individuals,
18 corporations, and partnerships, except for the following:

19 (1) Motor vehicle rental companies having a national
20 franchise;

21 (2) National motor vehicle auction companies;

22 (3) Wholesale dealer-only auction companies;

23 (4) Used vehicle dealerships owned by a franchise motor
24 vehicle dealer; and

25 (5) Banks, credit unions, and savings and loan
26 associations.

1 Section 99. Effective date. This Act takes effect August 1,
2 2009.".